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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,224	04/22/2004	Lois Z. Matczak	SLS-0003-C	3223
23413	7590	03/07/2006	EXAMINER PICKARD, ALISON K	
CANTOR COLBURN, LLP 55 GRIFFIN ROAD SOUTH BLOOMFIELD, CT 06002			ART UNIT 3673	
DATE MAILED: 03/07/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/709,224

Applicant(s)

MATCZAK ET AL.

Examiner

Alison K. Pickard

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-12 and 19-23 is/are rejected.
- 7) ☒ Claim(s) 13-18 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Claim Objections

1. Claims 1-4 and 6-23 are objected to because of the following informalities: although neither the air horn nor the tubing is being positively claimed, it is unclear which the seal element is adapted to engage. In other words, the claims should clarify whether the seal element/annular portion is capable of engaging tubing OR an air horn. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 6-12, 21, and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Cupit (4,333,660).

Cupit discloses a compartment seal comprising a body 8 having an opening and plural circumferential openings 9, and a seal element 6/7. The seal element is secured to the body and has an aperture in alignment with the body opening. The seal element is configured to allow a tube/air horn to be sealingly engaged. The seal element has a conical portion 10 about the aperture. The conical portion has, at one end, an annular portion that can slidably/sealingly engage a tube therethrough. Regarding claim 21, the conical portion has, at one end, at least one convolute 7 defined by a perimeter smaller than the opening and larger than the conical portion.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cupit in view of Buynacek (6,490,964).

Cupit discloses that the seal can be bonded to the body member. However, Cupit does not appear to specifically mention the bonding is achieved via an adhesive. Buynacek teaches known bonding/molding process to bond a metal and rubber together. Buynacek teaches that it is known to use an adhesive (see col. 4, lines 1-14). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to use an adhesive to bond the metal body and rubber seal together. (Brancher '472 provides additional evidence that adhesive is used to connect the body and seal together.)

6. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cupit.

Cupit does not appear to disclose the angles required by the claims. However, it is not considered inventive to discover the workable or optimum ranges by routine experimentation absent the showing of criticality for such ranges. See *In re Aller*, 105 USPQ 233, 235 (CCPA 1955). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to make the conical portion with the claimed angles.

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Allowable Subject Matter

7. NOTE: claims 13-18 are considered allowable. The claim objection, set forth in section 1 above, needs to be corrected, though.

Response to Arguments

8. Although certain features were indicated as allowable, the Cupit rejection has been maintained because of the claim wording. Specifically, each of the independent claims recites that “one end” of the conical portion has “one of” a first feature (e.g. two s-shaped convolutes) “and” a second feature (e.g. an annular portion). This wording indicates that only one feature is required (similar to a Markush group). While Cupit does not have the two concentric s-shaped convolutes or the annular portion with a groove and an interior surface chamfered at opposing ends, Cupit does have at least one convolute and an annular portion. It appears that claims 1 and 21 (and their dependants) would be allowable if the claims were amended to require both features, i.e. one feature at one end and the other at the other end of the conical portion. Claims 19 and 20, even if amended, is obvious over Cupit and Busynacek.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alison K. Pickard whose telephone number is 571-272-7062.

The examiner can normally be reached on M-F (10-7:30), with alternate Friday's off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tricia Engle can be reached on 571-272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alison K. Pickard
Primary Examiner
Art Unit 3673

AP